

**Before the
Administrative Hearing Commission
State of Missouri**

TERRY LEE WILLIAMS, Jr.,)	
)	
Petitioner,)	
)	
vs.)	No. 14-1302 PO
)	
DIRECTOR OF PUBLIC SAFETY,)	
)	
Respondent.)	

DECISION

The Director of the Department of Public Safety (“the Director”) has cause to deny the application of Terry Lee Williams, Jr., for entrance into a basic training course for peace officers because he committed the criminal offenses of minor in possession and making a false report.

Procedure

On August 1, 2014, Williams appealed the denial of his application. The Director filed an answer on August 27, 2014. The Director filed a motion for summary decision on October 28, 2014, and Williams filed a response to the motion on November 7, 2014.

The Director bases his motion on certified copies of court records and the affidavit of his custodian of records, both of which are attached to his motion. Williams does not contest the facts established by that evidence. Therefore, the following facts are undisputed.

Findings of Fact

1. On June 2, 2009, in the city of Chillicothe, Missouri, Williams had a blood alcohol concentration of .84%. He was under age 21. He pled guilty in Livingston County Circuit Court to the municipal offense of minor in possession on November 12, 2009 and

received a suspended imposition of sentence with one year of supervised probation, which he successfully completed.

2. On June 9, 2009, in Livingston County, Missouri, Williams made a false report to a law enforcement officer that a crime had occurred. On July 29, 2009, he pled guilty to the charge and received a suspended imposition of sentence with two years' supervised probation, from which he was released on November 24, 2010.

3. On May 27, 2014, Williams applied to attend the Missouri Sheriff's Training Academy. In his application, he disclosed the above incidents.

4. By letter dated July 9, 2014, the Director denied Williams' application.

Conclusions of Law

We have jurisdiction of Williams' appeal. Section 590.100.3.¹ We may grant a motion for summary decision if a party establishes facts that entitle that party to a favorable decision and no party genuinely disputes such facts. 1 CSR 15-3.446(6)(A).² Facts must be established by admissible evidence such as affidavits or the adverse party's pleading or discovery response. 1 CSR 15-3.446(6)(B).

The Director's answer provides notice of the facts and law at issue. *Ballew v. Ainsworth*, 670 S.W.2d 94, 103 (Mo. App., E.D. 1984). The Director relies upon § 590.100, which provides:

1. The director shall have cause to deny any application for a peace officer license or entrance into a basic training course when the director has knowledge that would constitute cause to discipline the applicant if the applicant were licensed[;]

¹ Statutory references are to RSMo Supp. 2013 unless otherwise noted.

² All references to "CSR" are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

and § 590.080.1(2), which authorizes discipline of any peace officer who “[h]as committed any criminal offense, whether or not a criminal charge has been filed[.]” Section 556.016, RSMo 2000, defines a criminal offense as follows:

1. An offense defined by this code or by any other statute of this state, for which a sentence of death or imprisonment is authorized, constitutes a “**crime**”. Crimes are classified as felonies and misdemeanors.

Minor in Possession

The Director alleges that Williams committed the misdemeanor crime of Purchase or Possession by Minor, as defined by § 311.325.1, which states in pertinent part:

Any person under the age of twenty-one years, who . . . has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person’s blood is guilty of a misdemeanor.

Williams pled guilty to the municipal offense of Purchase or Possession by Minors as defined by Chillicothe ordinance, not § 311.325.1. A municipal ordinance violation is not a criminal offense. *City of Cape Girardeau v. Jones*, 725 S.W.2d 904, 907 (Mo. App., E.D. 1987). Nonetheless, we find Williams’ conduct met the elements of § 311.325.1, a misdemeanor under state law. He committed a criminal offense in violation of that statute.

Making a False Report

Williams pled guilty to the crime of making a false report in violation of § 575.080. He received a suspended imposition of sentence, which does not collaterally estop him from denying that he committed the offense. *Director of the Department of Public Safety v. Bishop*, 297 S.W.3d 96, 99 (Mo. App., W.D. 2009). But Williams does not deny that he committed the offense. Therefore, we conclude that he made a false report in violation of § 575.080.

Summary of Cause for Denial

Williams committed the criminal offenses of minor in possession and making a false report. There is cause to deny his application under §§ 590.080.1(2) and 590.100.1.

Rehabilitation

In Williams' complaint, he admits his past criminal offenses and states he has broken no laws since 2009. He includes recent reference letters from law enforcement personnel and asks for a review of his application in the hope that "a few poor decisions made in a short period of time does not define who I am today." But in licensing cases under §§ 590.010 to 590.195, if we find cause to deny a license, we lack any discretion to consider other factors such as rehabilitation or the passage of time. Under § 590.100.3, that discretion rests with the Director:

Any applicant aggrieved by a decision of the director pursuant to this section may appeal within thirty days to the [Commission], which shall conduct a hearing to determine whether the director has cause for denial, and which shall issue findings of fact and conclusions of law on the matter. The [Commission] shall not consider the relative severity of the cause for denial or any rehabilitation of the applicant or otherwise impinge upon the discretion of the director to determine whether to grant the applicant subject to probation or deny the license when cause exists pursuant to this section.

However, § 590.100.4 provides:

Upon a finding by the administrative hearing commission that cause for denial exists, the director shall not be bound by any prior action on the matter and shall, within thirty days, hold a hearing to determine whether to grant the application subject to probation or deny the application.

Therefore, Williams will have another chance to plead his case for permission to enter a peace officer training academy at the Director's hearing, as he requests in his response to the Director's motion.

Summary

There is cause to deny Williams' application because he committed the criminal offenses of minor in possession and making a false report.

SO ORDERED on November 13, 2014.

/s/ Karen A. Winn
KAREN A. WINN
Commissioner